

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6909 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PARESH SHIVABHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR AJ PATEL for Petitioners
MR DP JOSHI AGP for Respondent No. 1
UNSERVED-REFUSED (N) for Respondent No. 2
NOTICE SERVED BY DS for Respondent No. 3
MR SAURABH G AMIN for Respondent No. 8

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 21/12/98

ORAL JUDGEMENT

Leave to delete respondents No. 2 to 7. Rule.
Service of rule is waived by Mr. D.P.Joshi, learned A.G.P. for respondent No. 1 and Mr. Amin, learned advocate for respondent No. 8. One of the grounds on which the N.A. Permission came to be refused was that

there was encumbrance of respondent No. 8 society. Respondent No. 8 has appeared before this Court and filed affidavit in reply at page 67, inter alia, stating therein that now there are no outstanding dues of the society from the petitioner and that no charge of the society now remains on the land in question namely Block No. 1735 (one of the two blocks of the land in question). In that view of the matter, bearing in mind the other facts concerning the impugned order, it will be just and proper to remand the matter to the Secretary (Appeals) for reconsideration thereof after hearing all the parties concerned in accordance with law. Following order is, therefore, passed :

The matter is, therefore, remanded to the Secretary (Appeals) whose impugned order is hereby set aside. The said authority will hear all the concerned parties including the owners of the land in question and decide the appeal strictly on merits a fresh while considering the fact that the respondent No. 8 society's dues have been paid up and no charge remains on the land in question. Rule is made absolute in these terms with no order as to cost.

21.12.1998. (M.S.Parikh,J.)

Vyas